

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Rene Tellier,

Petitioner,

-v-

19-cv-11262 (AJN)

United States of America,

ORDER

Respondent.

ALISON J. NATHAN, Circuit Judge, sitting by designation:

On December 19, 2019, Petitioner Rene Tellier filed a motion pursuant to 28 U.S.C. § 2255 seeking to vacate certain of his convictions and sentences and conduct resentencing. The Court granted in part and denied in part the motion on October 5, 2021. *Tellier v. United States*, Nos. 92-CR-869, 19-CV-11262, 2021 WL 4555058 (S.D.N.Y. Oct. 5, 2021). Tellier appealed. On April 11, 2022, Tellier's criminal case, Docket No. 92-CR-869-2, was transferred to the Hon. Lorna G. Schofield. The civil docket associated with Tellier's § 2255 motion, Docket No. 19-CV-11262, however, remains before the undersigned.

On appeal, the Second Circuit remanded to this Court, pursuant to *United States v. Jacobson*, 15 F.3d 19, 21–22 (2d Cir. 1994), “to relieve any doubt concerning the district court’s reasoning and conclusions of law . . . so that the district court may consider and provide a reasoned explanation as to whether its denial of Tellier’s request for de novo resentencing was based on an exercise of discretion, or whether the court believed that it lacked authority to even consider resentencing on the remaining counts.” *Tellier v. United States*, No. 21-2959, 2023 WL 3608394, at \*2 (2d Cir. May 24, 2023) (summary order). The Circuit’s mandate has not yet issued, and this Court cannot take further action on the issues on appeal until it does. *See United*

*States v. Rodgers*, 101 F.3d 247, 251 (2d Cir. 1996) (“[T]he filing of a notice of appeal is an event of jurisdictional significance—it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal. A district court does not regain jurisdiction until the issuance of the mandate by the clerk of the court of appeals.” (cleaned up)). The Court intends to proceed expeditiously once the mandate issues.

On May 30, 2023, Tellier, acting *pro se*, filed a letter indicating his desire to voluntarily dismiss his § 2255 motion. Dkt. No. 29. Because Tellier is currently represented by counsel, the Court will not consider his *pro se* submission. *See United States v. Rivernider*, 828 F.3d 91, 108 (2d Cir. 2016). If Tellier seeks to withdraw his § 2255 motion, he shall make the appropriate filings through counsel on the criminal docket, civil § 2255 docket, and appellate docket pursuant to Rule 41 of the Federal Rules of Civil Procedure and Rule 42 of the Federal Rules of Appellate Procedure.

The Clerk of Court is respectfully directed to mail a copy of this Order to Mr. Tellier at the address listed below and to note the mailing on the public docket:

Rene Tellier  
Fed. Reg. No. 32515-054  
Canaan U.S. Penitentiary  
P.O. Box 300  
Waymart, PA 18472

SO ORDERED.

Dated: June 15, 2023  
New York, New York



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ALISON J. NATHAN  
United States Circuit Judge,  
sitting by designation